THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.394 of 2003

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17.8.2005

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Between:

N.Chandra Sekhar Reddy S/o. Easwar Reddy,
Nandyal Town & Mandal Kurnool District.

..... PETITIONER

AND

1 Govt Of A.P. Rep by its Principal Secretary, Home Department,
Secretariat Buildings, Hyderabad.
2 The Joint Collector & Addl Dist Magistrate, Kurnool.

.....RESPONDENTS

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ORDER:

The petitioner is the owner of Chandrasekhar Picture Palace, Nandyal. The petitioner's theatre was inspected by the Inspector of Police, I-Town P.S. Nandyal on 12.1.2001. On an allegation that the petitioner was screening an English movie "The Big Easy" which was allegedly obscene and on the ground that the petitioner allowed the children below 18 years into the cinema theatre, Crime No.4 of 2001 under Section 298-A of Indian Penal Code, 1860 (IPC) and Section 7(1) of Cinematograph Act, 1952 was registered. The matter was reported to the Joint Collector, the licensing authority. After issuing a show cause notice and obtaining explanation, the Joint Collector by proceedings dated 28.5.2001 imposed a fine of Rs.10,000/-. Aggrieved by the same, the petitioner filed W.P.No.11825 of 2001. This Court set aside the orders of the Joint Collector and remanded the matter for fresh consideration, after giving notice. Thereafter, after giving notice, the Joint Collector passed orders on 30.10.2001 revoking the licence issued to the petitioner with immediate effect. The petitioner then invoked Section 10(1) of A.P. Cinemas (Regulations) Act, 1955 (the Act) before the first respondent, who is appellate authority. By orders made in G.O.Rt.No.1502 dated 11.12.2002, the first respondent

confirmed the orders of the second respondent and dismissed the appeal, which is the subject matter of the present writ petition.

After obtaining the report from the Superintendent of Police, the licensing authority framed three charges as under:

1. That the Prop. of Chandrasekhara Talkies, Nandyal Town has caused the screening of obscene film by name "The Big Easy" in Chandrasekhara Talkies: on 12.1.2001 (1330 Hrs.) and violated the provisions of Sec.7(1) of Cinematography Act, 1952.

2. That the Prop. of the said Theatre has exhibited the obscene and objectionable posters at the said Cinema Theatre and thereby violated the provisions of Sec.10 of A.P. Prevention of Disfigurement in open places and Prohibition of obscene and objectionable Posters and Advertisement Act, 1997.

3. That the Prop. has committed the similar offence in the past and the Police booked a case in Crime No.84 of 1998 of Nandyal II town Police Station, which shows that he is in the habit of screening obscene films in Chandrasekhara Theatre, Nandyal and thus he has violated the condition of Form-'B' Licence.

Regarding the first charge, the petitioner submitted that "The Big Easy" is not an obscene film and that it was certified by the Government of India as 'A' category film. He also pleaded that the film was supplied by the distributors, M/s.Gani Pictures Private Limited, Tirupathi. The petitioner also denied charge No.2 and submitted that the petitioner theatre never exhibited objectionable posters and regarding the third charge, he pleaded that the earlier criminal case (C.C.No.325 of 1998 arising out of Crime No.84 of 1998) ended in acquittal and therefore, the charge is not true. The explanation of the petitioner was rejected by the authority of first instance. The very findings of the appellate authority were in challenge before the Government. However, curiously, the Government called for the report of the District Collector and based on such report dismissed the appeal filed by the petitioner. Therefore, the submission of the learned Counsel for the petitioner that the orders of the Government without giving an opportunity to the petitioner or his authorized representative after making submissions is illegal has force.

It is no doubt true that Section 10(4) of the Act or Rule 18 of the A.P. Cinemas (Regulations) 1970 does not specifically provide for giving an opportunity by the appellate authority. It does not, however, mean that the appellate authority should dispose of the appeal filed before it under Section 10(4) of the Act without giving an opportunity of being heard. If such an opportunity is denied, the very purpose of filing of an appeal would be rendered futile. If the appeal is disposed of based on the report of the District Collector, it would amount to an appeal from Ceaser to Ceaser's wife. Such a method of disposing of appeal has no sanction in law.

For the above reasons, the writ petition is allowed. The impugned G.O.Rt.No.1502 dated 11.12.2002 is set aside and the matter is remanded to the first respondent with a direction to give notice to the petitioner or his authorized

representative and dispose of the appeal, after hearing the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs.

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(**V.V.S.RAO,J**)

August 17, 2005.

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